

Remarks

Please note that this response was originally filed on May 3, 2005, along with a Petition to Withdraw Holding of Abandonment. Per a telephone discussion with SPE Pinchus Laufer, the applicants are resubmitting this response. Please also note that on May 3, 2005, an Information Disclosure Statement (IDS) was submitted with form PTO 1449 and one reference. The applicants have been charged for this IDS. Consequently, the applicants respectfully request the Examiner to forward a copy of the submitted form PTO 1449 indicating that the reference has been considered. If the Examiner has not received the IDS and PTO 1449, the Examiner is requested to telephone the undersigned.

Claims 1-21 are pending. Claims 22-28 have been cancelled. Claims 2, 3, and 13 have been amended.

The Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I. Claims 1-21, drawn to computer to computer data transfer regulating, classified in class 709, subclass 232.

Group II. Claims 22-28, drawn to input/output data buffer, classified in class 710, subclass 52.

During a telephone conversation between the Examiner and Sam Campbell on August 16, 2004, a provisional election was made without traverse to prosecute the invention of Group I, claims 1-21. Affirmation of this election is hereby given. Claims 22-28 are withdrawn from further consideration by the Examiner as being drawn to a non-elected invention. Additionally, claims 22-28 have been cancelled by the applicants.

Appreciation is expressed for the indication of allowability of claims 3, 4, 10-12, 14, and 15-16. However, at this time the applicants choose to defer amendment of these claims until they have had the opportunity to traverse the Examiner's rejections.

Claim 3 has been amended to correct a typographical error. The applicants respectfully submit that this amendment in no way changes the scope of coverage of claim 3.

In the Drawings

Figures 1 and 2 are objected to for not including the designation “Prior Art.” Accordingly, **Figures 1 and 2** have been amended to address the Examiner’s objection.

Rejection of Claims under 35 U.S.C. § 112

Claims 2 and 13 are rejected under 35 U.S.C. § 112, second paragraph. Claims 2 and 13 have been amended to address the Examiner’s rejections. The applicants respectfully submit that these amendments in no way change the scope of coverage of claims 2 and 13.

Rejection of Claims under 35 U.S.C. § 102

Claims 1, 2, 5-9, 13, and 17-21 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lothberg et al., U.S. Patent No. 6,775,295 (Lothberg). The applicants respectfully traverse these rejections.

Lothberg neither teaches nor suggests a method including:

identifying a first weighted value associated with a provisioning rate associated with the downstream node and a second weighted value associated with a provisioning rate of the node;

determining an allowed usage for the node using the usage data and the first and second weighted values; and

servicing transmit and transit traffic received at the node including limiting the servicing of the transmit traffic in accordance with the determined allowed usage;

as required by independent claim 1 and generally required by independent claims 8 and 20.

Regarding the claimed “identifying a first weighted value . . . and a second weighted value . . .,” the Examiner refers to column 6, lines 52-59, and column 9, lines 36-52 of Lothberg which states:

Each node implements the spatial reuse protocol by determining a fair amount of allocated bandwidth based on the bandwidth available to downstream nodes. Also, each node determines when control information should be sent upstream indicating that the node or nodes downstream are not receiving enough bandwidth. This is done by keeping track of four

quantities: local transmit usage, downstream usage, allocated usage, and forward rate.

...

A number of variations of the calculations described above are used in addition to or instead of the methods described for calculating the local transmit usage and forward rate. *For example, in certain embodiments, instead of sending local transmit usage calculated in the manner described above upstream, a time weighted average of the local transmit usage is used. In one embodiment, the time weighted average of the local transmit usage is calculated so that the time weighted average of the local transmit usage tends to decrease more slowly than it increases. Similarly, in certain embodiments, a time weighted average of the forward rate is used in some embodiments.* Also, when a quantity such as local transmit usage is decayed exponentially by periodically subtracting a fraction of the quantity, then, in some embodiments, a minimum constant is actually subtracted when the fraction of the quantity decreases below the minimum constant. (Emphasis added)

Thus, while Lothberg discloses using a time weighted average of the local transmit usage or the forward rate instead of the original values themselves, Lothberg neither teaches nor suggests identifying a first weighted value *associated with a provisioning rate associated with the downstream node and a second weighted value associated with a provisioning rate of the node.* Moreover, Lothberg simply discloses adjusting the original values themselves (i.e., the local transmit usage or the forward rate) rather than using the claimed weighted values.

Regarding the claimed “determining an allowed usage for the node using the usage data and the first and second weighted values,” the applicants respectfully submit that the particular parts of the cited reference that the Examiner has relied upon have not been designated as nearly as practicable, and the pertinence of the reference has not been clearly explained, both as required by 37 C.F.R. § 1.104(c)(2). Nevertheless, the applicants have made every effort to respond to the rejections outlined by the Examiner. More specifically, the Examiner refers to column 7, line 34 through column 9, line 52. Thus it appears that the Examiner is equating Lothberg’s “allocated usage” with the claimed “allowed usage.” However, nothing in the cited portion of Lothberg teaches or suggests the use of Lothberg’s time weighted average of local transmit usage or time weighted average of the forward rate in the calculation of Lothberg’s allocated usage.

Thus, that which the Examiner asserts as teaching the claimed “weighted values” is not used to determine that which the Examiner asserts as teaching the claimed “allowed usage.”

Regarding the claimed “servicing transmit and transit traffic received at the node . . . in accordance with the determined allowed usage,” the applicants again respectfully submit that the particular parts of the cited reference have not been designated as nearly as practicable. The Examiner again refers to column 7, line 34 through column 9, line 52, without any further specificity. As noted above, the Examiner is apparently equating Lothberg’s “allocated usage” with the claimed “allowed usage.” However, nothing in the cited portion of Lothberg teaches or suggests servicing both transmit and transit traffic in accordance with Lothberg’s “allocated usage”. Thus, Lothberg does not teach the claim limitation.

Accordingly, the applicants respectfully submit that independent claims 1, 8, and 20 are allowable over Lothberg. Claims 2-7 depend from claim 1 and are allowable for at least this reason. Claims 9-19 depend from claim 8 and are allowable for at least this reason.

Regarding independent claim 21, the applicants respectfully submit that claim 21 is allowable over Lothberg for at least the reasons stated above regarding the claimed “servicing . . .” limitation.


In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, on July 1, 2005.


Attorney for Applicant(s)

7/1/05
Date of Signature

Respectfully submitted,



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Amendments to the Drawings

The attached Replacement Sheets of drawings includes changes to **Figures 1 and 2**. **Figures 1 and 2** have been amended to include the designation "Prior Art." No new matter has been added.